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REMARKS

Claims 1 through 9 and new Claims 10 through 21 are pending in the application.

Claims 1 through 9 have been amended to bring them into conformance with United States practice. Claim 4 has been amended to recite a single polyethylene to polypropylene ratio, for example. Consequently, Claim 10 has been added to incorporate the advantageous polyethylene to polypropylene ratio noted in original Claim 4.

Claim 1 has also been amended to recite the presence of a base layer. Support for this amendment can be found in the Application-as-filed, for example on Page 6, lines 23 through 24.

Claims 11 through 21 have been added to reflect the advantageous methods of the invention. Support for Claims 11 through 21 can be found in the Application-as-filed, for example Claims 1 through 9 as originally filed.

Reexamination and reconsideration of this application, withdrawal of all rejections, and formal notification of the allowability of the pending claims are earnestly solicited in light of the remarks that follow.

Claim Objections

Claims 6 through 9 stand objected to as being in improper form in combination with Claim 4. Claims 4 and 6 through 9 have each been amended to remove their multiple dependencies. Accordingly, Applicants respectfully request withdrawal of this objection and examination of Claims 6 through 9 on their merits.

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*Rejection Under 35 USC § 112 Second Paragraph
and 35 USC § 101*

Claims 1 through 5 stand rejected under both 35 USC § 112 second paragraph and 35 USC § 101 as impermissible "use" claims. Claims 1 through 9 have been amended to claim articles of manufacture, as is consistent with United States practice. Applicants accordingly respectfully request withdrawal of this rejection.

Claim 4 has been amended to remove the recitation "of PE : PP = 1:12 to 5:1." Applicants accordingly respectfully request withdrawal of this rejection.

Claim 1 has been amended to provide antecedent basis for the "base layer" limitation within Claims 5 and 9. Applicants accordingly respectfully request withdrawal of this rejection, as well.

The Claimed Invention is Patentable in Light of the Art of Record

Claims 1 and 2 stand rejected as anticipated by United States Patent 6, 210, 795 to Nelson et al. ("US 795"). Claims 3 through 5 stand rejected over US 795 in view of United States Patent 5,516,563 to Schumann et al. ("US 563").

Applicants respectfully submit that US 795 does not constitute prior art and should be removed as a reference. The filing date of US 795 is October 26, 1999. The present invention is entitled to a priority date of October 15, 1999, based on its parent application DE 199 49 898.9. A certified English translation of DE 199 49 898.9 has ordered and is forthcoming to provide confirmation of the priority date of the present application.

Accordingly, Applicants respectfully submit that the rejection of Claims 1 through 5 has been obviated by the removal of the primary reference.

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Applicants further respectfully submit that the claimed invention is patentable in light of US 795 (considered either alone or in combination with US 563) regardless of its status as prior art. In that regard, it may be useful to consider the invention as recited in the claims before addressing the merits of the rejection.

The claims are directed to in-mold labels for blow-molding processes formed from multilayered polypropylene film. The polypropylene films include a base layer disposed between an inner top layer and an outer top layer. The inner top layer faces a container that is to be molded. The outer top layer is in contact with the mold. The inner top layer exhibits a roughness R_z of at least 3.5 microns, allowing the film to be applied essentially bubble-free to curved bodies, including those having a small radius of curvature. In advantageous embodiments of the invention, the inner top layer is formed from a mixture of at least two polymers which are not compatible with one another, as recited in Claims 2 through 4 and 10.

US 795 does not teach or suggest the claimed invention. US 795 is directed to monolayered films that have been coated with an adhesive that contains particles. A wide range of monolayered films are suitable for use in US 795, including polyethylene terephthalate. (Col. 3, lines 50 – 52). A similar wide range of adhesive coatings is provided, including styrene-butadiene copolymers and polystyrenes. (Col. 3, line 62 – Col. 4, line 2). Suitable particles include glass particles and fibers. (Col. 4, lines 23 – 31). The adhesive coating may be applied by any number of conventional coating methods, including gravure coating and the like. (Col. 7, lines 4 – 9).

US 795 does not teach or suggest the claimed multilayered polypropylene films. In contrast to the coated monolayered films of US 795, each of the layers within the multilayered polypropylene films of the invention are coextruded and biaxially oriented. US 795 further does not teach or suggest the advantageous embodiments of the invention employing incompatible polymers to impart surface roughness, such as the embodiments reflected in Claims 2 through 4 and 10. Nor does US 795 teach or suggest the beneficial aspects of the invention in which the

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inner top layer surface roughness is induced by increasing the formation of β -spherulites, as recited in Claim 11.

Accordingly, Applicants respectfully submit that the claimed invention is patentable in light of US 795. More particularly, Applicants respectfully submit that Claims 1 and 2 are not anticipated by US 795. Applicants further respectfully submit that Claims 3 through 5 are patentable in light of US 795, considered either alone or in combination with US 563.

US 563 is directed to opaque, matt films. (Col. 2, lines 45 – 47). The matte outer surface of US 563 is intended for subsequent printing, thus the matte surface is positioned away from the container. (Col. 2, lines 38 - 41). The matte outer surface of US 563 is formed from a two component mixture that includes HDPE having a melt flow index of up to 50 g/10 min. (Col. 2, line 60 – Col. 3, line 3). As noted within the outstanding Office Action, US 563 notes that films having densities of up to 1.1 g/cm³ are suitable for use as packaging films. (Col. 7, lines 35 – 45). The films of US 563 may be used in a variety of generic applications. (Col. 16, lines 27 – 34). US 563 does not, however, note the use of its films within blow molding processes.

Applicants respectfully submit that there would have been no motivation to have combined US 795 and US 563. Applicants respectfully submit that merely because the references can be combined is not enough, there must still be a suggestion. MPEP 2143.01 (section citing Mills).

However, even if combined (which Applicants submit should not be done), the claimed invention would not result. US 795 clearly requires a coated monolayer film. US 563 teaches films having matt layers positioned on the side opposite the container. Consequently, even if combined, the recited multilayered film having an inner top layer facing the container that exhibits a roughness of at least 3.5 microns would not result.

Accordingly, Applicants respectfully submit that Claims 3 through 5 are patentable in light of US 795 and US 563, considered either alone or in combination.

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CONCLUSION

It is respectfully submitted that Applicants have made a significant and important contribution to the art, which is neither disclosed nor suggested in the art. It is believed that all of pending Claims 1 through 21 are now in condition for immediate allowance. It is requested that the Examiner telephone the undersigned if any questions remain to expedite examination of this application.

It is not believed that fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional fees are necessary to allow consideration of this paper, the fees are hereby authorized to be charged to Deposit Account No. 50-2193.

Respectfully submitted,

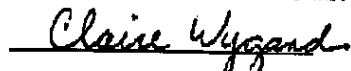


Klaus Schweitzer
(See attached Limited Recognition Form)

ProPat, L.L.C.
425-C South Sharon Amity Road
Charlotte, NC 28211-2841
Telephone: (704) 365-4881
Fax: (704) 365-4851

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Claire Wygand